<u>Cri. M.A. No. 1623/2026</u>
Bank of India Vs. Himanshu Charan Mehroliya & Ors.

<u>ORDER BELOW EXH.1</u>
(Passed on 15th day of April, 2026)

1. Perused the Application, which is supported by the Sworn Affidavit of the Authorized Officer of the Applicant and necessary documents.
2. Heard the learned Advocate for the Applicant.
3. By this application, the Applicant is seeking the assistance for taking possession of the secured assets as per Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("the SARFAESI Act").
4. The Hon'ble Bombay High Court in the landmark Judgment of **M/s. Trade Well & Anr. vs. Indian Bank & Anr. [2007 (1) Bom CR (Cri) 783]** laid down the following guidelines in respect of Section 14 of the SARFAESI Act-
    1. The bank or financial institution shall, before making an application under section 14 of the NPA Act, verify and confirm that notice under section 13(2) of the NPA Act is given and that the secured asset falls within the jurisdiction of CMM/DM before whom application under section 14 is made. The bank and financial institution shall also consider before approaching CMM/DM for an order under section 14 of the NPA Act, whether section 31 of the NPA Act excludes the application of sections 13 and 14 thereof to the case on hand.
    2. CMM/DM acting under section 14 of the NPA Act is not required to give notice either to the borrower or to the 3rd party.
    3. He has to only verify from the bank or financial institution whether notice under section 13(2) of the NPA Act is given or

not and whether the secured assets fall within his jurisdiction. There is no adjudication of any kind at that stage.

4. It is only if the above conditions are not fulfilled that the CMM/DM can refuse to pass an order under section 14 of the NPA Act by recording that the above conditions are not fulfilled. If these two conditions are fulfilled, he cannot refuse to pass an order under section 14.
5. Remedy provided under section 17 of the NPA Act is available to the borrower as well as the third party.
6. Remedy provided under section 17 is an efficacious alternative remedy available to the third party as well as to the borrower where all grievances can be raised.

5. In view of the above, there is no requirement to give the Notice to the Borrower while deciding the application under Section 14 of the SARFAESI Act. Also, it appears from the material placed on record that the Applicant had issued the Notice under section 13(2) of the SARFAESI Act to the Borrowers and it was deemed to be received by the Borrowers. But no material is available on record to suggest that the Borrowers have preferred any application under Section 17 of the SARFAESI Act. Further, the secured assets fall within the jurisdiction of this Court. Moreover, the Authorised Officer in the Sworn Affidavit affirmed that all requirements of Section 13 of the SARFAESI Act are duly complied with. Therefore, there is no impediment in granting the necessary assistance to the Applicant in taking possession of the secured assets (Schedule "I" property) as per Section 14 of the SARFAESI Act. Hence, I proceed to pass the following order-

ORDER

1. The Application is allowed.
2. Issue Possession Warrant for Schedule "I" property as prayed.

3. The Head Bailiff of this Court is directed to depute the Bailiff for taking possession of the following property-

PROPERTY (Schedule "I")

Equitable Mortgage of all that piece and parcel of Land bearing Plot No. 54, admeasuring about 127.788 Sq. Mtrs, out of, Khasara No.8 of Mouza Harpur, P.H. No. 39, Sheet No. 177, Thak No. 171, together with House Construction standing thereon, bearing Corporation House No. 2852/54, Ward No.20, City Survey No. 755, of Mouza Harpur, situated at Bhande Plot Nagpur, within the limit of Nagpur Municipal Corporation in Tahsil & District Nagpur and bounded as under :-

Towards East	:	Plot No.55
Towards West	:	Plot No.53
Towards North	:	Road
Towards South	:	Plot No. 68 & Plot No. 68 of Sambre & Hiwarkar

(Herein referred as the "SECURED ASSET")

4. The Bailiff shall take possession of the above property by taking such steps and using such force as may be legally necessary and to break open the lock, if required. After taking possession, the Bailiff shall forward the same to the Authorized Officer of Applicant.

5. The In-charge Police Officer of concerned Police Station, within whose jurisdiction the property is situated, is directed to provide necessary police protection for the execution of the aforesaid possession warrant at the cost of the Applicant.

6. The Applicant shall have to bear the requisite charges as per the rules.

PRITESH CHANDRASHEKHAR DESHPANDE

Digitally signed by PRITESH CHANDRASHEKHAR DESHPANDE
Date: 2026.04.15 16:03:26 +0530

7.

Nagpur
Date-15.04.2026

(Pritesh Deshpande)
20th Jt. C.J.S.D. & A.C.J.M., Nagpur

<u>C E R T I F I C A T E</u>

"I affirm that the contents of order are word to word as per original order uploaded to the CIS System by way of P.D.F. file."

Name of Stenographer : Mrs.R.R. Borkar (Grade-III)